

**Case Number: B304303**

**THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT, DIVISION - One**

SKID ROW NEIGHBORHOOD COUNCIL- FORMATION  
COMMITTEE, et. al.

v.

CITY OF LOS ANGELES

**APPELLANT'S OPENING BRIEF**

Appeal from an Order of the Los Angeles Superior Court

Superior Court Case Number: BS170257

The Honorable Mitchell Beckloff, Judge

Jeff Page (Filing Party)

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- Appellant in Pro Per -

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION 1</b>	COURT OF APPEAL CASE NUMBER: B304303
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: NAME: <u>JEFF PAGE</u> FIRM NAME: STREET ADDRESS: <u>1626 N. WILCOX AVENUE #924</u> CITY: <u>LOS ANGELES</u> STATE: <u>CA</u> ZIP CODE: <u>90028</u> TELEPHONE NO.: <u>323 445 0723</u> FAX NO.: E-MAIL ADDRESS: <u>ISSUEWANSOLUTIONS@YAHOO.COM</u> ATTORNEY FOR (name):		SUPERIOR COURT CASE NUMBER: BS170257
APPELLANT/ PETITIONER: <u>JEFF PAGE</u> RESPONDENT/ REAL PARTY IN INTEREST: <u>CITY OF LOS ANGELES</u>		
<b>CERTIFICATE OF INTERESTED ENTITIES OR PERSONS</b> (Check one): <input checked="" type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE		
<b>Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.</b>		

1. This form is being submitted on behalf of the following party (name): JEFF PAGE, ET. AL.
2. a. ☒ There are no interested entities or persons that must be listed in this certificate under rule 8.208.  
 b. ☐ Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (Explain):
(1)	
(2)	
(3)	
(4)	
(5)	

☐ Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: 4-16-2021

JEFF PAGE

(TYPE OR PRINT NAME)

Jeff Page

(SIGNATURE OF APPELLANT OR ATTORNEY)

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**- Confirmation of Governance -**

(Per the SRNC-FC’s “Non-Administrative Record- Volume 2”-  
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P0767)- Correspondence from the California Secretary of State’s  
office, dated August 7, 2018 (3<sup>rd</sup> paragraph), states;

“While the Secretary of State oversees statewide elections, Neighborhood Council elections are administered by the Department of Neighborhood Empowerment and City Clerk under Los Administrative Code 20.36(b)...”

**- Statement of Appealability -**

This appeal is from a judgement of the Los Angeles Superior Court and is authorized by the Code of Civil Procedure, section 904.1, subdivision (a)(1).

**II. - INTRODUCTION -**

I, Jeff Page (also known as “General Jeff”), am a resident within the County of Los Angeles, am of sound mind and body and file this document of appeal as an individual. I am also Chair of the Skid Row Neighborhood Council- Formation Committee (SRNC-FC) which is also an entity involved in this case and of which, is tasked with executing all requirements leading to the official creation of a Skid Row Neighborhood Council. However, because I am not an attorney, I cannot represent the SRNC-FC in this appeal. Also, I acknowledge that Katherine McNenny, who has filed a cross-appeal in this matter (as an individual), is also a resident within the County of Los Angeles and is a Member of the SRNC-FC.

This document of appeal consists of three (3) areas of challenge;

- 1) Writ of Mandate/ Writ of Administrative Mandamus
- 2) Motion to Compel
- 3) Judge Beckloff's Rulings and Determinations- Tentative Ruling document and Court Transcripts (Trial)

This matter is a dispute regarding a City-administered election in which the City of Los Angeles failed to fulfill it's duties as the Administrator, which includes the preservation and production of electronic online voter tallies in a fair and just manner, during both the initial election process itself and also during the legal challenge period for the 2017 Skid Row Subdivision election. The City's collective incompetent acts in totality have thus caused irreparable harm to any possibility of a fair and just outcome, whether it be now or in any future Skid Row Subdivision election(s).

What is not disputed by either party in this matter are the results of the paper ballots that were cast on election day- of which, the results were heavily in favor of our SRNC-FC (183 "for" [Yes] votes to only 19 "against" [No] votes) [Per the City's Administrative Record- Volume 1- Exhibit 9- "Subdivision Election Skid Row Canvas of Votes"- Bates Stamp SRNC/ADMIN 000247 and the SRNC-FC's Non-Administrative Record- Volume 2- Exhibit 81 "Addendum A"- "Election Results #1"(Dated April 6,



2017)- Bates Stamp P-0764 , and “Election Results #2”(Dated May 19, 2017)- Bates Stamp P-0765].

Further, Petitioners truly believe the only just relief is to find in favor of Petitioners based solely on the City’s failure to preserve and produce the electronic online voter tallies, which is a blatant violation of Los Angeles Election Code Section 1302(a), and henceforth overturn the 2017 Skid Row Subdivision election results, ruling the paper ballots as undisputed and in good standing and thereby granting the creation of a Skid Row Neighborhood Council, effective immediately. Or, an acceptable alternate relief would be to completely void and/or vacate the lower court’s previous ruling and return this matter back to the lower court with a specific order instructing the City of Los Angeles to produce the electronic online voter tallies in dispute as a matter of just and due diligence regarding the administering of an election...and upon the instance of the City of Los Angeles’ failure to produce said electronic online voter tallies, a just relief in favor of Petitioners.

In addition, because all neighborhood councils within the City of Los Angeles are funded with taxpayer monies, it is Petitioners belief that this Court of Appeals should also rule in favor of all neighborhood council elections forthwith be subjected to the oversight and jurisdiction of the California Secretary of State, for

the purpose of removing the City of Los Angeles as the sole administrator, overseer, judge and jury of an entire spectrum of local government elections and it's processes.

### **III. - Factual and Procedural Background -**

For full and proper context, the following is a timeline of events before, during and after the 2017 Skid Row Subdivision election;

In October, 2016, the City of Los Angeles (Per City Attorney Mike Feuer, Mayor Eric Garcetti and the Los Angeles City Council) approved the Subdivision Ordinance (22.819) enabling communities (such as Skid Row) to file a Subdivision application to create a new neighborhood council separate from the larger neighborhood council(s) it currently exists within (Downtown Los Angeles Neighborhood Council and Historic Cultural Neighborhood Council, in this instance).

In December, 2016, the Skid Row Neighborhood Council-Formation Committee (SRNC-FC) officially submitted a Subdivision petition (Per City of Los Angeles Council File 12-1681)

On January 11, 2017, the City of Los Angeles approved the SRNC-FC's Subdivision petition (Per the SRNC-FC's Non-Administrative

Record- Volume 2- Exhibit 41- "Skid-Row-Neighborhood-Council-Subdivision- Application-Acceptance-Letter (Jan. 11, 2017) (email from DONE)- Bates Stamp P-0344).

The above approval also included approval of the boundaries for the SRNC- [Per the Subdivision Ordinance (22.819)], an election is to be held within 90 days within the boundaries proposed by the applicant (In this matter, the Subdivision applicant is the SRNC-FC). In it's Subdivision petition, Petitioners proposed the boundaries for the Skid Row Neighborhood Council to be as follows; 3<sup>rd</sup> street to the north, 7<sup>th</sup> street to the south, Main street to the west and Alameda street to the east.

On March 24, 2017, (less than two weeks prior to the election) the Los Angeles City Council approved a Motion moved by then-City Councilmember Jose Huizar [whose council district included the Downtown and Skid Row areas] to allow electronic online voting only for the 2017 Skid Row Subdivision election, even though there was already a citywide ban on all electronic online voting [established in June, 2016] of which, continued to remain in place both during and after said Skid Row Subdivision election.

Immediately following the aforementioned City Council approval, the Department of Neighborhood Empowerment, in an

unauthorized capacity, expanded electronic online voting options well beyond Petitioners' proposed boundaries, in the form of "pop-up polls"- which are physically-existing, in-person voting locations, of which, (due to 9 out of 12 pop-up polls established beyond Petitioners proposed boundaries), is a direct violation of the Subdivision Ordinance. [Per Subdivision Ordinance 22.819, section (b)] (See below attachment Exhibit #4)

Further, the Department of Neighborhood Empowerment then activated thousands of voters who previously registered in both the totally separate 2016 Downtown Los Angeles and Historic Cultural neighborhood council regular Board member elections by automatically registering them as "verified voters" for the 2017 Skid Row Subdivision election. Thus, making it virtually impossible to determine which voters actually had an interest in registering for the 2017 Skid Row Subdivision election on their own and subsequently, skewed all voter rolls as it pertains to verifying current stakeholder status, electronic online voter tallies, voter registration confirmation methods, ballot recount methods and all-the-while introduced many instances in which the possibility of voter fraud impeded the 2017 Skid Row Subdivision election- an election with an alleged 60-vote differential.

NOTE: It should be noted that the aforementioned “pre-approval” happened less than two weeks prior to said Subdivision election which thereby rendered any and all outreach efforts by Petitioners to “unknown pre-registered voters” literally impossible and extremely biased against the SRNC-FC (including Petitioners), the Skid Row community and the benefits of having a Skid Row Neighborhood Council...especially with multiple “Vote No” (against SRNC-FC) e-mails (possibly coming from one of the involved neighborhood councils) circulating on social media to potential voters. The City of Los Angeles erred in its role as Administrator by applying flawed metrics which thereby created biased findings during the Election Challenge Review Panel process and thus, rendered unjust final determinations against the SRNC-FC. (Per the City’s Administrative Record- Volume 1- Exhibit 4- “Letter to General Jeff Page Re Election Challenges Dated May 19, 2017”)

On April 6, 2017, the actual Skid Row Subdivision election was held from 3pm-7pm in Skid Row. An extremely unbalanced voting discrepancy of a four-hour voting period at a physical location in Skid Row versus a 216-hour voting period for electronic online voting across the much larger Downtown area occurred.

On April 6, 2017 (approx. two-hours after the election doors closed, the City's Department of Neighborhood Empowerment issued its "Unofficial Election Results". It alleged the SRNC-FC lost by a sixty (60) -vote differential. (See below attached Exhibit "c")

On April 10, 2017, in addition to requesting an official recount and other election challenge remedies, the SRNC-FC officially filed five (5) election challenges. The parameters of what were deemed "acceptable challenges" and "unacceptable challenges" were pre-determined by the City's Department of Neighborhood Empowerment prior to the election. An extremely-limited scope of seven (7) total possible challenge options were provided. Of the five (5) challenges submitted by the SRNC-FC, three (3) were accepted and approved by the City's Department of Neighborhood Empowerment. (NOTE: It must be noted that challenges to electronic online voting were not included, nor allowed) (Per the City's Administrative Record- Volume 1- Exhibit 8- "Neighborhood Council 2017 Subdivision Manual"- Bates Stamp SRNC/ADMIN 000126 and 000127)

On May 3, 2017, a three-member Election Challenge Review Panel (ECRP) was convened by the City's Department of Neighborhood Empowerment. The ECRP sustained each of the SRNC-FC's three (3) election challenges.

On May 19, 2017, the City's Department of Neighborhood Empowerment rejected the ECRP's recommendations in its "Final Determination" letter, sustained its own previous determination that the SRNC-FC lost the 2017 Skid Row Subdivision election by sixty (60) votes and immediately certified said election without conducting any further investigation(s) (despite being recommended by the ECRP).

[Per Code of Civil Procedure 1094.6(b)] which states, "Any such petition shall be filed no later than the 90<sup>th</sup> day following the date on which the decision becomes final."

On July 19, 2017, exactly 60-days from May 19<sup>th</sup> when the City of Los Angeles officially certified the 2017 Skid Row Subdivision election, the SRNC-FC filed both a Writ of Mandate (1085) and a Writ of Administrative Mandamus (1094.5) in Los Angeles Superior Court.

### **III (a). - Writ of Mandate/ Writ of Administrative Mandamus -**

The definition(s) of a Writ of Mandate are as follows;

[Per Code of Civil Procedure section 1085(a)]: “a) A Writ of Mandate may be issued by any court to any inferior tribunal, corporation, board or person, **to compel the performance of an act** which the law specially enjoins, **as a duty resulting from an office**, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person.” (Emphasis added) (*City of Los Angeles v. Superior Court* 51 Cal.2d 423 -333 P.2d 745)

[Per Law.com], Writ of Mandate is defined as “A court order to a government agency, including another court, to follow the law by **correcting it’s prior actions** or ceasing illegal acts.” (Emphasis added) (*Hoitt v. Department of Rehabilitation* (2012) 207 Cal.App.4<sup>th</sup> 267, 285.) (“...because the ultimate determination of procedural fairness amounts to a question of law.” (*Nasha LLC v. City of Los Angeles* (2004) 125 Cal.App.4<sup>th</sup> 470, 482.)

### **(Section 1)**

The above definition for Writ of Mandate per Code of Civil Procedure 1085, indicates that any court (in this case the Court of Appeals) can order an entity (in this case the City of Los Angeles) to compel the performance of an act as a duty resulting from an



office. The duty is as the Administrator of the 2017 Skid Row Subdivision election and, specifically-identified, is the production of the electronic online voter tallies.

The City's long list of failures as Administrator, are as follows;

1 (a). [Per the City's Administrative Record- Volume 1- Exhibit 9-"Subdivision Election Skid Row Canvas of Votes"- Page 1 (Bates Stamp 000247)- 3<sup>rd</sup> Paragraph- Section identified as "Online Votes"- Lines 2-3], states "Online Votes- 581 (in the Yes column)....807 (in the No column)...1388 (in the total votes received column) (It should be noted that the 1<sup>st</sup> line of tabulation is suspiciously removed and/or extremely illegible. Said 1<sup>st</sup> line is the Paper Ballot column in which 183 YES votes were cast in favor of the SRNC-FC and 19 NO votes were cast against the formation of the Skid Row Neighborhood Council).

1 (b). [Per the SRNC's Non-Administrative Record- Volume 2-Exhibit 81- "Addendum A"- Pages 68 and 69 (Bates Stamp P-0764 and P-0765)]- On Page 68, the "Unofficial Results" of the 2017 Skid Row Subdivision Election dated April 6, 2017 on the 1<sup>st</sup> line of tabulations clearly identify Paper Ballots as 183 YES votes to 19 NO votes. However, and by contrast, on Page 69, the "Final Results" dated May 19, 2017

as previously stated above, the Paper Ballots column is barely visible to the naked eye, yet all subsequent information is clearly visible.

1 (c). [Per the SRNC-FC's Non-Administrative Record- Volume 1-Exhibit 4- "Inconclusive DONE-provided election tally documentation plus initial email request (in thumb drive)" and the identical Exhibit 82- "Thumb Drive"- (See below attachment Exhibit #1 for abbreviated summation) "Exhibit #1" displays the document titled "Final Original List online voters- Redacted" implies there were 670 total online voters in the 2017 Skid Row Subdivision election. However, the aforementioned "Canvas of Votes" document cited in Exhibit #2 states there were 1388 online voters. This alleged result thereby creates a discrepancy of 718 votes in an election with an alleged 60-vote differential. It is the position of Petitioners that production of the electronic voter tallies in question is paramount to resolving a matter with such massive discrepancy, especially as it pertains to an election.

2 (a). [Per the City's Administrative Record- Volume 1- Exhibit 8-"2017 Neighborhood Council Subdivision Election Manual"- Page 7 (Bates Stamp- SRNC/ADMIN 000119)- Paragraph 5- Line 1] states, "Online Voting results will be tabulated by the Online Voting Vendor in accordance with

the process agreed upon by the Department, the City Clerk, and the Vendor. The results will be printed from the Online Voting system...”

2 (b). [Per the City’s Administrative Record- Volume 1- Exhibit 8- “2017 Neighborhood Council Subdivision Election Manual”- Page 7 (Bates Stamp- SRNC/ADMIN 0001119)- Paragraph 6- Line 1] states, “After the count is over, the Poll Manager will package all election materials, including ballots and registration forms and return them to the IEA, who will also review the election materials. EmpowerLA (also known as the City of Los Angeles’ Department of Neighborhood Empowerment or DONE) will arrange the delivery of the election materials to the City Clerk on the next business day.”

2 (c). [Per the City’s Administrative Record- Volume 1- Exhibit 8- “2017 Neighborhood Council Subdivision Election Manual”- Page 8 (Bates Stamp- SRNC/ADMIN 000120)- Paragraph 2- Line 1] states, “A Final Official Certified Canvas of Votes will be issued once there are no outstanding ballots to be verified. EmpowerLA (City) will retain ballots, provisional ballots, stakeholder registration forms and tally sheets until after the deadline for challenges if there are no challenges or after the conclusion of arbitration of all challenges.”

## (Section 2)

The above definition for the Writ of Mandate (1085) per Law.com, indicates a court (in this case the Court of Appeals) can order a government agency (in this case the City of Los Angeles) to follow the law by correcting it's prior actions or ceasing it's illegal acts.

In addition, Petitioners filed a Writ of Administrative Mandamus (1094.5), whose subsection (b), states "The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of Discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." Said [1094.5, subsection (b)] also applies to the lower court as well (which will be further addressed below).

As for the remaining portions of this section, the City's "prior actions" which can also be described as "illegal acts", ...

(*Wilks v. Mouton* 159 Cal.App.3d 792 AO 24878 "...on the grounds of election officials' malconduct and illegal voting. Elec. Code 20021.")

... are individually identified as follows;

1. “Unite DTLA versus DTLA United”- (Two different e-mails, sent from two different e-mail addresses, representing two different organizations- yet the City deemed them one in the same).

1(a). [Per the City’s Administrative Record- Volume 1- Exhibit 3- “Letter to Neighborhood Council Election Challenge Panelists Re: Department Report on Skid Row Neighborhood Council Subdivision Election dated April 28, 2017”- Page 4 (Bates Stamp- SRNC/ADMIN 000043)- titled “Attachment A”- Paragraph “2”- Line 2], states “From: **Unite DTLA** [UniteDTLA@gmail.com](mailto:UniteDTLA@gmail.com) ]

1(b). [Per the City’s Administrative Record- Volume 1- Exhibit 3- “Letter to Neighborhood Council Election Challenge Panelists Re: Department Report on Skid Row Neighborhood Council Subdivision Election dated April 28, 2017”- Page 8 (Bates Stamp- SRNC/ADMIN 000047)- titled “Attachment C”- Paragraph “2”- Line 2], states “From: **DTLA United** [DTLAUnited@gmail.com](mailto:DTLAUnited@gmail.com) (Emphasis added)

1(c). [Per the City's Administrative Record- Volume 1- Exhibit 10- "Transcript- May 3, 2017 Skid Row Neighborhood Council Election Challenge Hearing"- Page 5 (Bates Stamp SRNC/ADMIN 000252) (Bottom of document reads "Page 5 of 124")- 3<sup>rd</sup> speaker- identified as "Jeff Page- 00:10:29"- Lines 1-15], states "...the email in question...is UniteDTLA@gmail.com...by comparison...the email address on attachment c is DTLAUnited. So comparing the two, those are two separate emails. So in DONE's (Department of Neighborhood Empowerment) report when they said that Unite DTLA sent two emails out, they did not...Not only did they not send two emails out, but those are the metrics that were flawed metrics that negatively influenced DONE's report...significantly altering their findings and therefore their subsequent recommendations are all off skewer because it's inaccurate based on what they said."

1(d). [Per the City's Administrative Record- Volume 1- Exhibit 10- "Transcript- May 3, 2017 Skid Row Neighborhood Council Election Challenge Hearing"- Pages 21-22 (Bates Stamp SRNC/ADMIN 000268) (Bottom of document reads "Page 21-22 of 124")- 3<sup>rd</sup> Paragraph- Section identified as "Grayce Liu

01:02:22”- Lines 9-16], states “...and I know that General Jeff mentioned that there were two different emails that this came from, and for us that doesn’t make a material difference....and said that Unite DTLA, two Unite DTLA emails even though they came from two different Gmail accounts. They were still basically representing Unite DTLA.”

1(e). [Per the City’s Administrative Record- Volume – Exhibit 4- “Letter to General Jeff Page Re: Election Challenges Dated May 19, 2017”- Page 2 (Bates Stamp SRNC/ADMIN 000065)- 2<sup>nd</sup> Paragraph- Lines 3-6], states “In fact, DLANC President Patti Berman specifically told the Unite DTLA to remove the DLANC logo within hours of the original email being released, and it was removed within a day when a new “Vote No” email was sent out again by Unite DTLA.”

2. City falsely claims “No evidence was presented” regarding ‘Vote No’ campaign propaganda against SRNC-FC, who on the contrary, provided both written and verbal testimony of specific, fact-filled evidence which thereby warranted further investigation by City of Los Angeles as Administrator of the election. Yet, the City failed in it’s obligation to do so.

2(a). [Per the City's Administrative Record- Volume 1- Exhibit 4- "Letter to General Jeff Page Re: Election Challenges Dated May 19, 2017"- Page 3 (Bates Stamp SRNC/ADMIN 000066)- 1<sup>st</sup> Paragraph- Lines 2-6], states "There was no evidence presented to show how many people even received the Unite DTLA "Vote No" email campaign with the DLANC logo, which was replaced within a day by another "Vote No" email without the DLANC logo by Unite DTLA so the effect of the first email was likely minimal in the overall campaign."

2 (b). [Per the SRNC-FC's Non-Administrative Record- Volume 1- Exhibit 1B- "Transcript of March 22, 2017 LA City Council Rules & Elections Committee Special Meeting"- Page 13 (Bates Stamp P-0040)- 2<sup>nd</sup> Paragraph- Section identified as "Grayce Liu 31:34"- Lines 1-5], states "I know that some folks express concern regarding the process of voter registration. For us, the folks that already voted, the 847 people for Downtown Los Angeles Neighborhood Council in the 2016 elections as well as 194 in Historic Cultural, they're already pre-registered and ready to vote."

2(c). [Per the City's Administrative Record- Volume 1- Exhibit 1 (1<sup>st</sup> orange-colored tab) and (3<sup>rd</sup> orange-



colored tab)- “Election Challenge Panel Special Meeting of May 3, 2017”- Page 10 (Bates Stamp SRNC/ADMIN 000010) and Page 32 (Bates Stamp SRNC/ADMIN 000032)- (Multiple entries of exact same evidence of then-sitting DLANC Board member Jacob Douglas Van Horn publicly providing intricately-detailed testimony on a social media platform)- 3<sup>rd</sup> Paragraph- Lines 10-11], states “...spamming everyone’s email inbox four times a day...”.

2(d). {Per the City’s Administrative Record- Volume 1- Exhibit 10- “Transcript- May 3, 2017 Skid Row Neighborhood Council Election Challenge Hearing”- Page 10 (Bates Stamp SRNC/ADMIN 000257)- 1<sup>st</sup> Paragraph (continued from previous page)- (section identified as “Jeff Page 00:27:15”)- Lines 11-16], states “...But what we do know is only days before our election that these emails went out...everyone’s email, spamming. So there’s multiple emails, numerous emails went out four times a day.”

2(e). [Per the City’s Administrative Record- Volume 1- Exhibit 10- “Transcript- May 3, 2017 Skid Row Neighborhood Council Election Challenge Hearing”- Page 10 (Bates Stamp 000257)- 2<sup>nd</sup> Paragraph- Line 1,

states “When we look at DLANC and we talk about the 2016 neighborhood council election, there were 847 people that registered for that. Now they were automatically registered for our Skid Row Neighborhood Council subdivision election. And, through that four times over 800 signatures...800, I’m sorry, registered voters we’re talking over 3,300 email per day...DLANC can’t prove that it stopped after one day. So it’s fairly safe to be arguing that there’s thousands and thousands of emails went out per day so it definitely negatively influenced our election.”

2(f). [Per the City’s Administrative Record- Volume 1- Exhibit 3- “Letter to Neighborhood Council Election Challenge Panelists Re: Department Report on Skid Row Neighborhood Council Subdivision Election dated April 28, 2017”- Pages 11-12 (Bates Stamp SRNC/ADMIN 000050 and 000051)- titled “Attachment E”- Both Pages]. The SRNC-FC testified during it’s presentation for the 2017 Skid Row Subdivision Election Challenge Review Panel Hearing that “847 people” registered for the 2016 DLANC elections who were automatically registered by the Department of Neighborhood Empowerment for the 2017 Skid Row Subdivision election. Instead of

providing the exact 2016 DLANC elections voter registration list to confirm the number of pre-registered voters, the City entered into it's official report specifically for the Election Challenge panelists (who would soon thereafter rule on multiple election challenges), numerous other unrelated "DLANC lists" which all failed to provide conclusive resolve of the election issue in question. Of those 12 DLANC lists, one is titled "General DLANC Mailing List" and claims 1,127 subscribers. If a "Vote No" e-mail went out to each of these subscribers at a rate of "four times per day", that would be 4,508 biased "Vote No" e-mails in circulation, possibly distributed illegally and against election laws. The City failed to provide adequate administrative oversight in it's own advance report to panelists regarding this specific contentious election issue.

2(g). [Per the City's Administrative Record- Volume 1- Exhibit 3- "Letter to Neighborhood Council Election Challenge Panelists Re: Department Report on Skid Row Neighborhood Council Subdivision Election dated April 28, 2017"- Pages 13-25 (Bates Stamp 000052-000063)- titled "Civic U: Resilient Los Angeles- Tuesday, August 14, 2018"]- The Skid Row Subdivision Election Challenge Review Panel Hearing

took place on May 3, 2017. One can only question how 12 pages of “evidence” dated August 14, 2018 (well over one-year after the 2017 Skid Row Subdivision election in question) was added to an official City report intended to influence the judgement of the ruling panelists, then also be entered into evidence in an official legal matter in Superior Court. Did the City intentionally perform this act multiple times as an attempt to deceive? Is it a “Freudian slip” which sheds invaluable insight into the City’s intentional bias against the SRNC-FC? Or is this more evidence of the City’s incompetence? Or all of the above?

3. “Candidate” versus “Applicant”- When Petitioners filed our election challenges on April 10, 2017 on the City’s election challenge portal, challenge #105 was listed as “Electioneering by a Candidate”. In multiple instances afterwards, the City abused it’s power, intentionally changed the language from “candidate” to “applicant”, then subsequently ruled against Petitioners by claiming “Electioneering by Applicant” was not an applicable challenge.

3 (a). [Per the City’s Administrative Record- Volume 1- Exhibit 8- “Neighborhood Council 2017 Subdivision

Manual"- Page 6 (Bates Stamp SRNC/ADMIN 000018)- Section titled "Subdivision Election Process"- Subsection titled "Overview"- Paragraph 5- Lines 1-2], states "Challenges- Any Stakeholder who voted in the election can challenge the election results by visiting the online challenge portal found at EmpowerLA.org and following the instructions.

3 (b). [Per the City's Administrative Record- Volume 1- Exhibit 1- "Election Challenge Panel Special Meeting of May 3, 2017"- Page 2 (Bates Stamp SRNC/ADMIN 000002)- Meeting Agenda Item "#3"- Line 6], states "Challenge #105 Electioneering by Candidate".

3 (c). [Per the City's Administrative Record- Volume 1- Exhibit 1- (3rd orange-colored tab)- "Election Challenge Panel Special Meeting of May 3, 2017"- Page 1 (Bates Stamp SRNC/ADMIN 0000023)- Middle of Page- Section titled "Reason for Challenge"], states "Electioneering by candidates".

3 (d). [Per the City's Administrative Record- Volume 1- Exhibit 3- "Letter to Neighborhood Council Election

Challenge Panelists Re: Department Report on Skid Row Neighborhood Council Subdivision Election dated April 28, 2017”- Page 1 (Bates Stamp SRNC/ADMIN 000040)- Section titled “Re:” (as in Regarding)- Line 4], states “Challenge #105 Electioneering by Candidates”.

3 (e). [Per the City’s Administrative Record- Volume 1- Exhibit 4- “Letter to General Jeff Page Re Election Challenges Dated May 19, 2017”- Page 1 (Bates Stamp SRNC/ADMIN 000064)- Middle of Page- After 1<sup>st</sup> Paragraph] states “Challenge #105: Electioneering by Applicants”.

3 (f). [Per the City’s Administrative Record- Volume 1- Exhibit 4- “Letter to General Jeff Page Re Election Challenges Dated May 19, 2017”- Page 2 (Bates Stamp SRNC/ADMIN 000065)- 4<sup>th</sup> Paragraph- Lines 3-5], states “...The majority of the Election Challenge Panel in a split vote found that the word “applicant” applied to DLANC. In this situation, however, the applicant would be the Skid Row Neighborhood Council Forming Committee and not DLANC.”

4. “Factual Basis” - The City of Los Angeles interjected unauthorized and unapproved language into this matter by wrongfully citing the 2017 Neighborhood Council Subdivision Manual as the reference for an unfounded “factual basis” claim which it then used to justify it’s position in the final determination of an election challenge. However, there is no mention of “factual basis” anywhere in the 2017 Neighborhood Council Subdivision Manual section titled “Challenges” [Administrative Record- Volume 1- Exhibit 8- Page 14 (Bates Stamp SRNC/ADMIN 000126)].

4 (a). [Per the City’s Administrative Record- Volume 1- Exhibit 4- “Letter to General Jeff Page Re Election Challenges Dated May 19, 2017”- Page 1 (Bates Stamp SRNC/ADMIN 000064)- 4<sup>th</sup> Paragraph- Lines 1-4], states “Per Section XII of the Subdivision Election Manual, the supporting documentation for election challenges must prove that the alleged challenges are not only valid, but would also have made a difference in the election challenge in order for the Election Challenge Panel to have the factual basis to uphold the challenges. The factual basis was not met for any of the challenges...”

4 (b). [Per the City's Administrative Record- Volume 1- Exhibit 8- "Neighborhood Council 2017 Subdivision Manual"- Page 14 (Bates Stamp SRNC/ADMIN 000126)- Section titled "XII. Challenges"- Subtitled "Election Challenges"- 2<sup>nd</sup> Paragraph- Item listed as "#5"-Line 1], states "The supporting documentation must prove that the alleged challenge is not only valid, but would also have made a difference in the election outcome."

4 (c). Per the City's Administrative Record- Volume 1- Exhibit 8- "Neighborhood Council 2017 Subdivision Manual"- Page 14 (Bates Stamp SRNC/ADMIN 000126)- Section titled "XII. Challenges"- Subtitled "Election Challenges"- 2<sup>nd</sup> Paragraph- Item listed as "#5"-Line 2], states "...Challenges without such supporting documentation will automatically be rejected."

4 (d). [Per the City's Administrative Record- Volume 1- Exhibit 8- "Neighborhood Council 2017 Subdivision Manual"- Page 14 (Bates Stamp SRNC/ADMIN 000126)- Section titled "XII. Challenges"- Subtitled "Election Challenges"- 4<sup>th</sup> Paragraph- Line 1], states "Election Challenges will be handled by the



Neighborhood Council Grievance Panel if they meet the requirements.”

5. “Pop-up Polls” – The City of Los Angeles violated the Subdivision Ordinance (22.819), subsection (b) by activating 12 pop-up polls for the 2017 Skid Row Subdivision election, of which 9 of the 12 took place beyond the proposed boundaries established by the 2017 Skid Row Subdivision applicant (SRNC-FC). Further, the City activated said pop-up polls without any authorization by the City Council- who approved “online voting” in Committee on March 22, 2017 and was approved by full council on March 24, 2017. None of the specific authorization language in the Council motion approves the implementation of the usage of pop-up polls, nor implies pop-up polls can be utilized beyond the “proposed boundaries” [SRNC-FC’s Non-Administrative Record- Volume 1- Exhibit 1B- “Transcript of March 22, 2017 LA City Council Rules and Elections Special Meeting”- Page 17 (Bates Stamp P-0044)- 3<sup>rd</sup> Paragraph].

(“The grounds of the contest were the first and fourth enumerated in said section, viz.: 1. Malconduct of the election boards; and 2. Illegal votes.” (Page 71) *Russell v. McDowell* 83 Cal. 70, 13323)

5 (a). [Per the SRNC-FC's Non-Administrative Record- Volume 1- Exhibit 9- "ORDINANCE No. 184526 Neighborhood Council Subdivision (Los Angeles)"- Page 1 (Bates Stamp P-0105)- 2<sup>nd</sup> Paragraph- Section 22.819 (b)- Lines 1-3], states "**Election Approving a Subdivision.** The Department shall conduct an election within the boundaries stated in the subdivision petition within 90 days of the Department's approval of the subdivision election."

5 (b). [Per the City's Administrative Record- Volume 1- Exhibit 8- "Neighborhood Council 2017 Subdivision Manual"- Page 3 (Bates Stamp SRNC/ADMIN 000115)- 5<sup>th</sup> Paragraph- Lines 1-2], state "The Department shall conduct and election within the boundaries stated in the subdivision petition within 90 days of the Department's approval of the subdivision petition."

5 (c). [Per the SRNC-FC's Non-Administrative Record- Volume 1- Exhibit 1B- "Transcript of March 22, 2017 LA City Council Rules & Elections Committee Special Meeting"- Page 17 (Bates Stamp P-0044)- 3<sup>rd</sup> Paragraph- Section identified as "Public discussion between then-City Councilmember Jose Huizar and

then-General Manager of the Department of Neighborhood Empowerment Grayce Liu during aforementioned Committee meeting”- Starting at Section identified as “Grayce Liu: 41:24”- Lines 1-8 (and ongoing)], states “...In our typical elections there’s only one polling location...What we’ve done in the past was one location. It’s located within the forming neighborhood council boundaries...”

Discussion continues at “Mr. Huizar: 42:01”, states “But that’s typical of every neighborhood council election?”

Discussion continues at “Grayce Liu: 42:03”, states “That’s correct”

Discussion continues at “Mr. Huizar: 42:04”, states “One polling location, four hours. That’s what we’ve done every time.”

Discussion continues at “Mr. Huizar: 42:16”, states “Okay. Thank you, so with that Mr. Chair...my recommendation will be that The Department of Neighborhood Empowerment, and the city clerk be instructed and authorized to enable the online voting platform for the April 2017 Neighborhood Council Subdivision Election for the Downtown area. This should not change the existing suspension of online voting in any other area until we can further discuss

the issues in DONE's report, and the factors that led to the suspension."

There was no mention of any approval of pop-up polls to be used in any manner in the official motion read into the record by then-Councilmember Jose Huizar, nor was authorization given to DONE to extend pop-up polls beyond the boundaries proposed by the SRNC-FC, which upon enactment would be an immediate violation of Subdivision Ordinance 22.819, subsection (b).

5 (d). [Per the SRNC-FC's Non-Administrative Record-Volume 1- Exhibit 10- "2017 SRNC Subdivision election polling locations/PUPs (map)"- Page 1 (Bates Stamp P-0109)- Map with a legend which states, "There were 12 Pop-Up Polls (PUP).....DONE held 6 separate Pop-Up Poll voting days in it's own office in City Hall."

Of the 12 Pop-Up Polls, 9 were outside the proposed boundaries established in the SRNC-FC's Subdivision petition. Hundreds of online votes were cast at these illegal physically-existing, in-person voting locations that the City installed without proper authorization or going through the appropriate channels.

The City of Los Angeles thereby illegally amended a standing ordinance and also wrongfully incorporated significant violations within the subdivision election process by illegally amending election rules without authorization after City Council final approval of the specific online voting instructions, interjecting unapproved parameters, and also rendering flawed official rulings and tainted election outcomes based on it's illegitimate acts.

### **III (b). - Motion to Compel -**

On July 12, 2019, both parties appeared in Superior Court regarding SRNC-FC's "Motion to Compel Production of Documents and/or for Alternate Remedies due to Defendants Failure to Preserve Evidence". Said motion requested the court to order the City to produce the electronic online voter tallies for the 2017 Skid Row Subdivision election.

("It is the duty of the court to validate the election..." (Page 430)  
*Rideout v. City of Los Angeles* 185 Cal. 426 L.A. 6499)

Further, the above motion also requested the court to rule in favor of the SRNC-FC if the City failed to preserve and produce said electronic online voter tallies. ("...In controlling the order of proof, the trial court did not require Hernandez to go forward..."

*Fair v. Hernandez* (1981) 116 Cal.App.3d 868, 875-877, 878, 172 Cal.Rptr. 379.)

[Per the SRNC-FC's aforementioned "Motion to Compel" filing document- Exhibit C- Page 2- Paragraph 2 titled "Your Duty to Preserve Evidence"- Dated August 18, 2017- Lines 1-6], states "You must diligently act to identify and preserve all potentially relevant sources of information. This includes the duty to instruct Everyone Counts, Inc to preserve all evidence. You duty further includes the duty to instruct key personnel, including data control personnel...to prevent the destruction or alteration of relevant evidence."

On Page 3 of the aforementioned "Compel" document, the very first item requested for preservation, states "1. Any information submitted by a voter or potential voter to your online voter platform for any election, including logins and passwords."

[Per the City's filing, titled "Respondents Opposition to Petitioners' Motion to Compel Production of Documents and/or for Alternate Remedies due to Defendants' Failure Preserve Evidence"- Exhibit 1- Page 1, an e-mail from the third-party vendor which conducted the online voting platform for the City, in a response identified as "#3.", states "The 'Skid Row Sub-Division

Election results' file will contain the final count tally for this election. This is the same report we have sent at the end of your election."

[Per the City's previous legal counsel in this very matter- Patricia Ursea – filed a document on June 28, 2019 titled "Declaration of Patricia Ursea in Support of Respondents' Opposition to Petitioners' Motion to Compel Production of Documents and/or for Alternate Remedies due to Defendants' Failure to Preserve Evidence". The following is stated;

1. On Page 1- 2<sup>nd</sup> Paragraph- Lines 1-5 (Pleading Line 7), states "2. On August 16, 2017, I was copied on an email from Darren Martinez, Managing City Attorney for the Neighborhood Council Advice Division, to the general manager of Respondent, as well as the employee responsible for records retention, instructing them to preserve all documents related to the election at issue, 'including obtaining the information from Everyone Counts regarding the voting."
2. On Page 1- 3<sup>rd</sup> Paragraph- Lines 1-6 (Pleading Line 12), states "3. On August 17, 2017, I sent an email to the general manager and the individual in charge of record retention

asking for written confirmation that all documents related to the election at issue, including documents in the possession of Everyone Counts, were being preserved. On the same date, I received confirmation from the employee in charge of record retention confirming that all documents in Respondents' possession were being preserved and that Everyone Counts would be contacted to ensure preservation as well."

3. On Page 1- 4<sup>th</sup> Paragraph- Lines 1-5 (Pleading Line 17), states "4. On November 27, 2018, I...produced over 1,000 pages of documents along with hundreds of pages of Excel spreadsheets. These documents included...documents describing how the votes would be collected and tallied."
4. On Page 1- 5<sup>th</sup> Paragraph- Lines 1-3 (Pleading Line 22), states "5. On March 1, 2019, I produced additional documents to Respondent, which contained, among other things, text messages from an employee of Respondent regarding the election."
5. On Page 1- 7<sup>th</sup> Paragraph- Lines 1-2 (Pleading Line 27), states "7. On May 30, 2019, Pete Martin notified me that he had reviewed all the records and determined that Votem did not retain EC data "for security reasons."



6. On Page 2- 1<sup>st</sup> Paragraph- Lines 1-4 (Pleading Line 1), states  
“8. On June 22, 2019, in reviewing historical emails  
between Respondent and EC, I discovered the November 20,  
2017 email from S. Box to EC requesting “all records held by  
Everyone Counts that relate to the Skid Row Subdivision  
Election”, including records relating to “the tabulation of  
votes”...which is attached as Ex. 1 to the Opposition.”
7. On Page 2- 3<sup>rd</sup> Paragraph- Lines 15-16 (Pleading Line 24),  
states “10 (e). **Exhibit E:** April 12, 2019 email from me to  
Petitioners’ counsel stating that “I’m still trying to get the  
docs you want.”
8. On Page 2- 3<sup>rd</sup> Paragraph- Lines 17-19 (Pleading Line 26),  
states “10 (g). **Exhibit G:** April 25, 2019 email from me to  
Petitioners’ counsel stating “I actually made some headway  
in finally connecting with Votem. I’ll let you know when I  
nail this down.”

[Per the SRNC-FC’s Non-Administrative Record- Volume 2- Exhibit  
55- Page 1 (P-0459)- Paragraph 4, states “There was a request for  
a recount which came in after the deadline, but the issue is moot,  
as the ballots were already recounted as a matter of routine.”

[Per the City's filing titled "Respondents Opposition to Petitioners' Motion to Compel Production of Documents and/or for Alternate Remedies due to Defendants' Failure to Preserve Evidence"- Exhibit 1- Page 2- 4<sup>th</sup> Paragraph- Section identified as "#3"- (Conversation between the City and third-party vendor responding to public records request)- Dated November 28, 2017- Lines 1-6], states "Copies of the tabulation of votes following the close of voting period. Everyone Counts was required to provide DONE with this by Section 203 Paragraph 18 of their contract with the City." (Third-party vendor), replies "We sent over the final results, do you need another copy, or is there something else you were needing for this item?" (City responding to third-party vendor), states "Please resend anything that was sent during the election."

[Per the City's aforementioned filing- Exhibit 1- Page 2- 5<sup>th</sup> Paragraph- Section identified as "#4"- Lines 1-8, states "Copies of the records produced by Everyone Counts in compliance with Section 203 Paragraph 19 of their contract with the City, which requires them to "record, tabulate and report the voting submission used by voters submission methods (online or telephone) to the DEPARTMENTS after the voting period ends. (Third-party vendor), replies "We only did online voting for SkidRow – so all votes were submitted online. (City responding to third-party vendor), states "Please resend anything that was sent

during the election process, if there are no records, please indicate “no records exist.”

### **III (c). Judge Beckloff’s Rulings and Determinations- Tentative Ruling document and Court Transcripts- (Trial)**

On February 5, 2020, the Superior Court trial for this case transpired. Only moments prior to its commencement, Judge Beckloff issued his “Tentative Ruling” document. Our SRNC-FC legal counsel did not have an appropriate amount of time to properly review the court’s “tentative” position, and thereby was unable to state the significant flaws within said document during the actual trial. They are, but not limited to, as follows;

1(a). [Per Judge Beckloff’s Tentative Ruling document- Page 6- 1<sup>st</sup> Paragraph- Lines 4-9], state “Moreover, Petitioner’s interpretation of the Ordinance does not address what “within the boundaries stated in the subdivision petition” means in light of all stakeholders of a neighborhood council affected by a proposed subdivision being permitted to vote. (AR 115.) The reasonable interpretation given to the language referenced by Petitioners by Respondent in its administration of the Ordinance (which is entitled to

deference) is not about geography as suggested by Petitioners but instead about who may vote- those in all affected neighborhood council districts. (AR 102)”.

1(b). [Per the City’s Administrative Record- Exhibit 8- “Neighborhood Council 2017 Subdivision Manual”- Page 3 (Bates Stamp SRNC/ADMIN 000115)- 5<sup>th</sup> Paragraph- Lines 1-2], states “The Department shall conduct an election within the boundaries stated in the subdivision petition...”.

1(c). [Per the SRNC-FC’s Non-Administrative Record- Exhibit 9- “ORDINANCE No. 184526 Neighborhood Council Subdivision (Los Angeles)”- Page 1 (Bates Stamp P-0105)- Section identified as “Sec. 22.819 **Neighborhood Council Subdivision**”- Section (b)- Lines 1-2], state “The Department shall conduct an election within the boundaries stated in the subdivision petition...”

1(d). [Per the SRNC-FC’s Trial Brief- Section titled “Argument”- Page 1 (Bates Stamp 000322)- 2<sup>nd</sup> Paragraph- Section identified as “#1”- Lines 1-2], state “The Subdivision Ordinance requires the voting location be within the boundaries of the proposed neighborhood council...”

2(a). [Per Reporter's Transcript (Of February 5, 2020 Superior Court Trial)- Page 7- Starting with 3<sup>rd</sup> Paragraph- Pleading Line 15], states "The Court:...Now let's focus on your 1085. Can you identify for me a ministerial duty that would require the City to change the results of the election?"

[Pleading Line 19], states "Mr. Beuchel:...What I can show is the duty, and the duty comes from the Administrative Record Item No. 12, Page 25....It shows...that the City, since they were implementing the election, had a duty to keep track of the votes."

[Pleading Line 26], states "Mr. Beuchel: The online votes were immediately disputed...Of course we sent a preservation later (\*letter)."

[Pleading Line 10], states "The Court: I'm looking at Exhibit 12. Can you tell me where the ministerial duty arises?"

[Pleading Line 12], states "Mr. Beuchel: Section 15. It's in Roman numerals XV, Page 25 of that document at the bottom."

[Pleading Line 15], states "Mr. Beuchel: I don't think it's disputed that the City is required to maintain the votes. They're required to tabulate the votes and keep the records....And they didn't and they destroyed them."

[Pleading Line 23], states “Mr. Beuchel: The only thing I think that’s appropriate for the court to do is void the online votes because we have no proof any of them occurred.”

[Pleading Line 26], states “The Court: I’m not going to void the online votes. You get a new election if I agreed with you. That’s it. In fact, what I would do—The only relief I could give you is find the election was invalid, right?...”

[Page 9- Pleading Line 7], states “The Court: I don’t think you’ve demonstrated that.”

3(a). [Per Reporter’s Transcript (Of February 5, 2020 Superior Court Trial)- Page 9- Starting with Pleading Line 11], states “Mr. Beuchel: The ordinance requires the voting to occur in the proposed boundaries. Nine out of 12 voting locations didn’t.”

[Pleading Line 14], states “The Court: You have no analysis in the Ordinance when you take out of context that phrase. Could you explain to me how it is that everybody in the affected districts, so stakeholders, are to vote if it’s only within what you proposed is the Skid Row Neighborhood Council?”

3(b). [Per Reporter’s Transcript (Of February 5, 2020 Superior Court Trial)- Page 9- Starting with Pleading

Line 20], states “(The Court:)...And could you please tell me where in the Administrative Record I could find your petition? Because Subdivision (a) of the Ordinance says, all stakeholders in all affected councils must be identified in the petition.”

3(c). [Per the SRNC-FC’s Non-Administrative Record- Volume 1- Exhibit 9- 1<sup>st</sup> Paragraph- Section identified as **“Sec. 22.819 Neighborhood Council Subdivision”**- Subsection “(a) **Subdivision Petition**”- Lines 1-12], states “A stakeholder within an existing certified Neighborhood Council who desires forming a separate Neighborhood Council...except that the subdivision petition may propose boundaries that are within one or more existing certified Neighborhood Councils.”

4. [Per Reporter’s Transcript (Of February 5, 2020 Superior Court Trial)- Page 10- Starting with Pleading Line 20], states “Mr. Beuchel: How do we resolve the issue that the City was responsible to maintain the online votes? They didn’t. They destroyed them even though they knew they were disputed. What relief are Petitioner’s entitled to for that?...”

[Pleading Line 26], states “The Court: I can invalidate – assuming I agreed with you, I can invalidate the election.”

5. [Per Reporter's Transcript (Of February 5, 2020 Superior Court Trial)- Page 11- Starting with Pleading Line 4], states "...It's curious to me that somebody didn't just think let's resubmit our petition and do it again."

6(a). [Per Reporter's Transcript (Of February 5, 2020 Superior Court Trial)- Page 12- Starting with Pleading Line 17], states "...If you know the City intends to have pop-up polling in areas you think are geographically incorrect under the ordinance – I don't think your interpretation is right..."

6(b). [Per Judge Beckloff's Tentative Ruling document- Page 1- 2<sup>nd</sup> Paragraph- Line 1], states "In Petitioners' Fourth Amended Petition (FAP), filed October 17, 2019 without leave from the court to do so, Petitioners allege: (1) Respondent violated Los Angeles Administrative Code section 22.819, subdivision (b)..."

6(c). [Per the SRNC-FC's Non-Administrative Record- Exhibit 9- titled "ORDINANCE 184526 Neighborhood Council Subdivision (Los Angeles)- Page 1- Section titled **"Sec. 22.819. Neighborhood Council Subdivision"** – Subsection titled "(b) **Election Approving a Subdivision.**"- Lines 1-2], state "The Department shall



conduct an election within the proposed boundaries stated in the subdivision petition within 90 days of the Department's approval of the subdivision petition."

7. [Per Reporter's Transcript (Of February 5, 2020 Superior Court Trial)- Page 13- Starting with Pleading Line 2], states "The Court: I'm not saying the pop-up polls are right or they were right or they were wrong...So the court, if it agreed with you, could invalidate the election...I'm not going to compel the City to hold a new election."

8. [Per Reporter's Transcript (Of February 5, 2020 Superior Court Trial)- Page 13- Starting with Pleading Line 17], states "(The Court:) What I'm saying is a lot of these issues the court can deal with in advance of an election..."

9. [Per Reporter's Transcript (Of February 5, 2020 Superior Court Trial)- Page 14- Starting with Pleading Line 4], states "The Court: Do you have an objection to invalidating the election?"  
[Pleading Line 6], states "Ms. Mariani: I mean, your honor, we just don't believe they've carried their burden to ---".

[Pleading Line 8], states “The Court: I absolutely agree with you.”

[Pleading Line 10], states “The Court: What difference does it make other than – Is it about attorney fees now?”

[Pleading Line 12], states “Mr. Beuchel: No, I waive attorney fees.”

{Pleading Line 13], states “The Court; What difference does it make if I invalidate the election? I honestly don’t think you’ve met your burden. It’s – for the reasons I stated.”

10. [Per Reporter’s Transcript (Of February 5, 2020 Superior Court Trial)- Page 15- Starting with Pleading Line 8], states “(The Court:) You talk about this evidence shows that it’s something more than coincidence. It’s not – It’s circumstantial evidence of the collusion that’s going on between City officials...”.

11. [Per Reporter’s Transcript (Of February 5, 2020 Superior Court Trial)- Page 19- Starting with Pleading Line 26], states “Mr. Beuchel: It was their obligation to keep the records. They destroyed them. They destroyed them for a reason because we won.”

[Page 17- Pleading Line 1], states “The Court: So if I just step back to your seventh cause of action for just a

second, it seems to me that, during the extensive election challenge panel...”

12. [Per Reporter’s Transcript (Of February 5, 2020 Superior Court Trial)- Page 21- Starting with Pleading Line 4], states “(Mr. Beuchel:) So then finally they can file their writ and challenge the online votes, which is what they wanted to do...There were duplicate votes...They haven’t even taken the duplicate ballots out of the online vote count.”

[Pleading Line 10], states “The Court: So given – So what is- What is the remedy?”

[Pleading Line 12], states “Mr. Beuchel: What I think the remedy is you have to invalidate the online vote, send it back to DONE for a recount...They don’t have proof to support their online votes.”

[Pleading Line 21], states “The Court: ...The remedy here is to invalidate the election. The election resulted in no neighborhood counsel. There is nothing I can give you, given the posture.”

[Pleading Line 26], states “The Court: I don’t think you’ve met your burden...”.

13. "Subdivision Ordinance 22.819" - Judge Beckloff erred in multiple instances when citing the Subdivision Ordinance.

[Per Beckloff's tentative ruling document- Page 1- 2<sup>nd</sup> Paragraph- Line 3], states "Respondent violated Los Angeles Administrative Code section 22.819, subdivision (b)...(which is the correct identification for said ordinance).

13(a). [Per Judge Beckloff's tentative ruling document- Page 2- 3<sup>rd</sup> Paragraph- Line 1], states "Following the adoption of Los Angeles Administrative Code (LAAC) section 22.820...(AR 105) (which was implemented in October, 2019- after the 2017 Skid Row Subdivision election) " - (This is an incorrect identification for the aforementioned Subdivision Ordinance (which is 22.819- implemented in September, 2016- the standing Subdivision Ordinance in 2017). Also, the identification of the location of the lower court's referenced exhibit is incorrect- "AR-105").

13(b). [Per Judge Beckloff's tentative ruling document- Page 2- Bottom of page- Reference "#2"- Line 3], states "...[See LAAC 22.820: AR 115]. (Again, both the Ordinance and the Exhibit are incorrect...in this instance with a totally different incorrect exhibit number....In this

instance, Judge Beckloff cites “AR 115” instead of “AR-105” in an apparent attempt to cite the very same exhibit).

14. “No reviewable evidence” – During the February 5, 2020 Trial, Judge Beckloff wrongfully spoke about the “Motion to Compel” hearing on July 12, 2019.

14(a). [Per Reporter’s Transcript- February 5, 2020- Page 4- Pleading Line 23]- “The Court: Okay. Just on July 12<sup>th</sup>, 2019 when you were here on that motion, you had – we discussed the fact there was no evidence concerning the votes that can be reviewed by this court. I said you can argue about that, right?”

14(b). [Per California Code of Civil Procedure – Section 1085] which states, “A writ of mandate may be issued by any court to any inferior tribunal, corporation, board or person, to compel the performance of an act...

14(c). [Per California Code of Civil Procedure – Section 1094.5- Subsection (b)] which states, “The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction;...and whether there was any prejudicial abuse of discretion.”

#### **IV. – Arguments -**

This litigation will ultimately be defined by the determination of two topics- 1) Preservation, and 2) Production- as they each pertain to the 2017 Skid Row Subdivision election.

In the aforementioned Subdivision election which was administered by the City of Los Angeles, it is the position of Petitioners that the City was legally responsible for the preservation of, and production of, all electronic online voter tallies- of which the City claimed that 1388 ballots were cast electronically online. That claim is, and was, immediately contested by Petitioners who prove above the City forwarded a spreadsheet which claimed there were 670 total online votes cast- which leaves a void of 718 votes in an election with a 60-vote differential.

This section of Petitioners appeal argues the numerous points identified above in which both the City of Los Angeles and Judge Mitchell Beckloff erred in their duties as Administrator of an election and as judicial overseer in a Superior Court trial, respectively.

#### IV-(1). - Standard of Review -

A traditional writ of mandate under Code of Civil Procedure section 1085 is a method for compelling a public entity to perform a legal duty. The trial court reviews an administrative action to determine whether the agency's action was arbitrary, capricious, or lacking in evidentiary support, contrary to established public policy, unlawful, procedurally unfair, or whether the agency failed to follow the procedure and give the notices the law requires.

Mandate will lie to correct abuses of discretion. (*Am. Fed'n of State, Cty. & Mun. Emps. v. Metro. Water Dist.* (2005) 126 Cal. App. 4th 247, 261.) Appellate review of a city's implementation of an ordinance is likewise limited to an inquiry into whether the city's action was arbitrary, capricious, or lacking in evidentiary support. (*Sacks v. City of Oakland* (2010) 190 Cal.App.4th 1070, 1082.)

The trial and appellate courts perform the same function with respect to the question of arbitrariness, caprice, or lack of evidentiary support. The conclusions of the trial court are not conclusive on appeal. (*Ibid.*; *Marshall v. Pasadena Unified School Dist.* (2004) 119 Cal.App.4th 1241, 1253.)

In proceedings on a petition for writ of administrative mandamus under Code of Civil Procedure section 1094.5, the trial court's inquiry extends to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there

was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded as required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence. (Code Civ. Proc., §1094.5, subd. (b).) On review of an administrative determination by administrative mandamus, if the trial court applied an abuse of discretion standard, the scope of review is the same in the appellate court. The agency's discretion is not unfettered, and reversal is warranted when the administrative agency abused its discretion. (*Kolender v. San Diego Cty. Civ. Serv. Com.* (2005) 132 Cal. App. 4th 716, 720–21.)

Petitioners have multiple points to argue, and they will each be argued in an identical presentation as the above-established format of three (3) sections, as follows;

- 1) Writ of Mandate/Administrative Mandamus
- 2) Motion to Compel
- 3) Judge Beckloff's Rulings/Determinations- Tentative Ruling and Superior Court trial

#### **IV (a). Writ of Mandate/Writ of Administrative Mandamus**

Per the City Charter, the City of Los Angeles is the sole Administrator over all neighborhood council elections since voters approved the ballot initiative in 1999. This includes the



preservation and production of all ballots- including all electronic online voter tallies.

In this very matter, while the City of Los Angeles produced numerous other items (including 1000s of pages of illegible spreadsheets) related to the 2017 Skid Row Subdivision election, they failed in each and every instance to produce the specifically-requested “electronic online voter tallies”.

After exhausting all other options, Petitioners turned to the courts to compel production of said electronic online voter tallies.

It should be noted that at no time throughout this entire matter has the City of Los Angeles produced a single electronic online voter tally as a form of evidence (despite them producing 1000s of “other” documents), which thereby justifies Petitioners argument that not a single electronic online vote was ever cast in the 2017 Skid Row Subdivision election and/or were never validated. And if accurate and valid electronic online voter tallies do exist for said election, why hasn’t the City of Los Angeles ever produced them?

This line of logic validates Petitioners reasoning for filing a “1085” (Writ of Mandate)- Petitioners request the court to order the City to comply with it’s legally-binding duties and responsibilities as

Administrator of the subdivision election in question. Of which, their primary and foremost duties include the preservation and production of said electronic online voter tallies.

Other City duties include the fair and just oversight as Administrator of it's own Election Challenge process, of which the SRNC-FC was subjected to following the official filing of a contest to the 2017 Skid Row Subdivision election with the very same entity responsible for administering the election (Per above "Governance" section of which the California Secretary of State clearly identifies the City of Los Angeles and it's Department of Neighborhood Empowerment as the sole Administrator of the 2017 Skid Row Subdivision election).

Also, a "1094.5" (Writ of Administrative Mandamus) was filed to request the lower court to order the City to compel the electronic online voter tallies otherwise said lower court had the jurisdiction to rule against the City of Los Angeles completely for it's failure to "preserve and produce".

Relief was further requested that upon a violation of either court order, the result would be a court determination ruling in favor of Petitioners deemed winners the 2017 Skid Row Subdivision

election due to the City's failure to uphold its preservation and production duties as Administrator of an election.

In the aforementioned "Section 1" of the Factual and Procedural Background section, points 1(a), 1(b) and 1(c) combine to identify and establish the City's official position that 1388 total online votes (allegedly 807 "No" votes to 581 "Yes" votes) were cast in the 2017 Skid Row Subdivision election. However, the City's spreadsheet document titled "Final Online voters list- Redacted" (See Exhibit #1) counts 670 total online voters on said "final" list. This discrepancy thereby constitutes a differential of 718 votes and thus confirms Petitioners position that the City failed in its duty as Administrator to produce the requested electronic online voter tallies needed in order to validate the alleged 1388 online voters for said Subdivision election.

Hence, Petitioners request the 2<sup>nd</sup> District Court of Appeals to rule in favor of Petitioners "1085" and order the City to produce the electronic online voter tallies totaling 1388 online voters, not the 670 it attempted to produce, otherwise validate only the paper ballots as the official vote count for the aforementioned Subdivision election and also invalidate the previous ruling by the lower court.

(NOTE: The City of Los Angeles offered no evidence in it's own Administrative Record, nor at any other point in time, clarifying and/or validating it's claim that 1388 total online votes were actually cast).

In the next aforementioned "Section 1" Factual and Procedural background, points 2(a)- 2(c), combine to confirm the City's legal obligation to preserve all ballots, tally sheets and more. Further, the language establishes the City as having an "internal house" with which to store all election-related items, including the electronic online voter tallies in question. This speaks to a totally separate preservation process from any third-party preservation agreements.

After which, in "Section 2" of the Factual and Procedural background, the "Law.com" definition of 1085 states the 2<sup>nd</sup> District Court of Appeals can order the City to correct it's previous mistakes as Administrator of the 2017 Skid Row Subdivision election. This is followed by the listings of numerous instances in which the City erred and/or Abused it's Discretion as the Administrator of said Subdivision election.

In "Section 2", subsection "#1", points 1(a)- 1(e), establish the City's failure to ascertain between two different e-mail accounts

which sent illegal negative campaign propaganda to thousands of potential voters. In this instance, it is the role of the Administrator of the election to establish, without prejudice, the appropriate clarification of the matter. Further, the City failed in it's oversight of the Election Challenge process by making misleading statements (which Petitioners argue were intentional), applying significantly-wrongful analytics, inducing "finger-on-the-scale" metrics, creating false findings and using all these elements as tools with which to make biased determinations against the SRNC-FC which cost Petitioners any and all possibilities of a positive outcome in an election.

In "Section 2", subsection "#2", points 2(a)- 2(g), confirm the City wrongfully stated "no evidence was provided" to help determine how frequent the "Vote No" e-mails were distributed. Further, subsequent evidence provided within these points prove that the City was, in fact, presented with evidence, and in addition, confirmed the City added said evidence from Petitioners election challenge evidence to it's own "Letter to Election Challenge Panelists" prior to the actual Election Challenge Review Panel hearing. For instance, memorable talking points of e-mails going out "four times a day" and additional evidence of various DLANC voter lists helped to establish that thousands of "Vote No" e-mails were distributed prior to said Subdivision election. And while the DTLA United e-mail was modified after Petitioners initial inquiry, the Unite DTLA e-mail was in violation having used a City-owned

logo without permission. The City failed in it's duties as Administrator of said Subdivision election when it allowed illegal campaign propaganda to be used to influence potential voters as well as render unjust rulings under false pretenses against Petitioners- before, during and after the hearing- to the panelists, publicly during the hearing and even more harmfully in it's Final Determination letter to the SRNC-FC.

In "Section 2", subsection "#3", points 3(a)-3(f) provide examples of where the City blatantly tips over the scales of justice when it deceitfully and intentionally switched the word "candidate" with "applicant" after Petitioners filed it's election challenges. It is literally impossible to find a plausible excuse for this devious "error". The City's own "evidence" provided in it's "information packet" to the panelists prior to the hearing clearly identifies #105 as "Electioneering by Candidate". There are additional instances of sound evidence confirming this as fact. Further, Petitioners argue the City purposefully switched the language from candidate to applicant because in the "Challenge Remedy" process, "disqualification of a candidate" is one of the few "narrowly-interpreted" remedies suggested by the City which, if selected, would instantaneously grant the SRNC-FC as the winner of the 2017 Skid Row Subdivision election. For the City to insinuate anything differently would be an admission of it's own incompetence thereby confirming it's egregious lack of fair and

impartial oversight as Administrator of an election and/or election process- thus causing irreparable harm to Petitioners.

In “Section 2”, subsection “4”, points 4(a)- 4(f) the City interjects unestablished “factual basis” language which fails to appear anywhere in it’s 2017 Subdivision Election Manual, yet and still, in it’s official capacity as Administrator of an election and election process, created unfounded metrics from which it thereby issued wrongful and unjust determinations against Petitioners. Also, additional evidence in this subsection confirm Petitioners position that if the City didn’t think the evidence was sufficient to move forward to an election challenge panel, the City clearly states it would have “automatically rejected” the challenges at that very moment. To later state the evidence did not meet the City’s standards is “moving the goal posts” to reach a “desired outcome” which is fundamentally devious, unjust and an Abuse of Discretion. Petitioners firmly believe the City’s “desired outcome” was against the creation of the Skid Row Neighborhood Council, which is clear bias and prejudice that led to illegal acts of manipulation of the election process which subsequently can also be described as Gross Negligence.

In “Section 2”, subsection “5”, points 5(a)-5(d) establish the City’s unauthorized implementation of pop-up polls, as well as the separate issue of pop-up polls in and of itself which are physically-

existing polling locations that were illegally set-up beyond the proposed boundaries, which is a direct violation of Subdivision Ordinance 22.819, subsection (b).

The aforementioned “points” confirm multiple instances in which the Subdivision Ordinance 22.819, subsection (b) clearly establishes the fact that any physical polling locations were only approved to be able to exist “within the proposed boundaries” identified by the subdivision applicant- In this case that is the SRNC-FC (Petitioners).

Not only did the City violate Subdivision Ordinance (22.819), subsection (b) by implementing pop-up polls beyond the proposed boundaries, it further confirmed said violation by coordinating numerous pop-up polling days within City Hall- which is obviously well beyond the boundaries of governance proposed for a Skid Row Neighborhood Council.

Further, testimony by the then-General Manager of DONE (the specific City department tasked with administering said Subdivision election) before the City Council committee determining the possible inclusion of online voting, indicated on record of her understanding of physical polling locations limited to only existing “within the proposed boundaries”. Thus, when



City Council approved the online voting option, it was clearly with the understanding that there would be only one physical polling location within the proposed boundaries and also online voting as an option in addition to the physical polling location. This is so because there were no other options presented to, nor discussed by, the City Council committee- specifically as it pertains to pop-up polls outside of the proposed boundaries.

**\*\* NOTE:** The City of Los Angeles offered no evidence in it's own Administrative Record disputing and/or clarifying any of these facts. The City, yet again, Abused it's Discretion as Administrator of an election. Petitioners request the Court of Appeals to deem all of the votes cast at pop-up polls beyond the proposed boundaries invalid and stricken from the final voter tally count. In addition, Petitioners request the Court of Appeals to order the City to validate the paper ballots as the undisputed official final vote tally for the 2017 Skid Row Subdivision election. Petitioners also request relief from the Court of Appeals in any manner deemed appropriate by the court as it specifically pertains to the matter of pop-up polls existing beyond the proposed boundaries which is a direct violation of the Subdivision Ordinance 22.819, subsection (b).

#### **IV (b). - Motion to Compel -**

The simple and short argument is- Judge Beckloff denied Petitioners Motion to Compel without ever establishing any justifiable factual basis for his denial. The longer argument is- Judge Beckloff's position is extremely peculiar since Petitioners easily established the City's obligation to "preserve" and it's failure to "produce". Judge Beckloff further Abused his Discretion by not ordering the City to abide by it's own election laws and produce said electronic online voter tallies as obligated by duty, to preserve, thereby further establishing additional Abuse of Discretion, thus validating each of Petitioners "1085" and "1094.5" filings.

Further, in multiple instances over a four-year period, Petitioners requested the City of Los Angeles to produce the electronic voter tallies for the 2017 Skid Row Subdivision election. In each and every one of those instances, the City failed to produce evidence to prove that even a single electronic online vote was ever cast, thus the very reason Petitioners filed a "Motion to Compel" to begin with.

On April 14, 2017 [referenced above in III (a)- Exhibit 55], eight (8) days after the election, the City stated in an e-mail they had already performed a "recount" of the ballots "as a matter of

routine". This implies that the electronic online voter tallies were also "recounted". Why, then, were said electronic online voter tallies never produced even though Petitioners first of multiple challenges to the election was officially filed on April 10, 2017 only four (4) days after the election, thereby solidifying an official challenge to an election which should have automatically activated the City's preservation laws?

Further, (Per evidence provided by the City titled "Respondents Opposition to Petitioners' Motion to Compel Production of Documents and/or for Alternate Remedies due to Defendants' Failure to Preserve Evidence"- Exhibit 1- Page 1- a response listed as "#3") A December 19, 2017 e-mail from the third-party vendor who administered all electronic online voting processes for the 2017 Skid Row Subdivision election indicated not only that they were sending "the final count tally for this election", but also stated "This is the same report we have sent at the end of your election".

Said above evidence confirms the third-party vendor responsible for administering all "electronic online voter tallies" processes, forwarded this information to the City of Los Angeles on multiple occasions which thereby indicates the City in multiple instances was, in fact, in possession of the very electronic online voter

tallies Petitioners then-requested, and continue to request, production of.

Why, then, has the City failed repeatedly to produce the requested election-confirming documentation for such a simple request in it's capacity as the sole Administrator of an election?

Additionally, if the City already had in it's possession the electronic online voter tallies, why would City Attorney Patricia Ursea meticulously itemize in her signed affidavit each of her steps taken to attempt to obtain the very electronic online voter tallies from the third-party vendor the City already possessed, as stated (and produced to the City on multiple occasions) by the third-party vendor?

Also, and in comparison, it is a glaring omission for City Attorney Ursea (by her own willingness in a signed declaration) to on one hand utilize intricate itemization methods in each step of her efforts to attempt to retrieve the electronic online voter tallies from the third-party vendor- even after they merged with an entirely different company, yet not once mentioned a single attempt to retrieve the very same information from her own clients/employer- City of Los Angeles, specifically from the unnamed "employee responsible for record retention", from

whom City Attorney Ursea herself positively declared as having received a confirmation e-mail from said “City employee” that all election materials were being preserved (taken to imply within the City’s own in-house processes).

Without question, the information in the above paragraph serves as unequivocal proof the City of Los Angeles was, and is, responsible for the preservation of the electronic online voter tallies. And, thus, the production of said tallies as well.

In the Superior Court trial, Petitioners legal counsel put the issue of the City’s failure “to preserve and produce” the electronic online voter tallies before the bench repeatedly, yet Judge Beckloff shockingly failed to address this most pertinent point of contention and in what can be argued as “appearing to be in a state of avoidance”, only uttered the words “I don’t think you’ve met your burden” but never specifically addressed any of the many instances Petitioners attempted to obtain the electronic online voter tallies, nor specifically addressed the Motion to Compel filing Petitioners put forth as a way to prove beyond question that Petitioners met our burden. Equally shocking, Judge Beckloff never once inquired as to the City’s position regarding the status of the electronic online voter tallies- Did the City properly preserve them in it’s capacity as Administrator of the 2017 Skid Row Subdivision election? Did the City ever

produce them to the SRNC-FC at any time? In response to Petitioners discovery requests? As a way to quickly bring this matter to a conclusion?

If Judge Beckloff deemed it “curious” in wondering why the SRNC-FC didn’t just “petition for another election”, it’s quite confusing as to why the bench was never “curious” as to why the City never produced the electronic online voter tallies to begin with- which was an official request by a party in this matter as opposed to a personal afterthought by a non-involved party which would better qualify as a “next steps” line of logic, which only makes sense after the original contest of the election has first been resolved.

The “intimidating” bias and prejudice from the bench against Petitioners in this segment of the hearing and/or trial appeared to be a subtle way to subconsciously encourage Petitioners to “accept defeat” (without official confirmation) and “try again” by petitioning for a whole new election- which has never been an option suggested nor implied by Petitioners.

To have our valid evidence completely ignored by Judge Beckloff during the Motion to Compel hearing was shocking, disappointing and emotionally devastating.

Petitioners were emotionally stunned and/or confused as to how best to proceed in presenting any filings in the future, and thus, Petitioners panicked and “over-prepared” and/or failed to prepare properly for the Superior Court trial in an attempt to better satisfy Judge Beckloff...only to be further demeaned and belittled during the actual trial, which can best be described as bias, prejudice and Abuse of Discretion- all against Petitioners.

#### **IV (c). Judge Beckloff's Rulings and Determinations- Tentative Ruling document and Court Transcripts- (Trial)**

If a trial judge commits an error or abuses his or her discretion, and the error causes a miscarriage of justice, the resulting judgment or order should be reversed, (California Constitution, Art. VI, sec. 13.) A miscarriage of justice has occurred if the appellant challenging the error can show it is reasonably likely that he or she would have achieved a better result in the proceeding if the error had not been made. (*People v. Watson* (1956) 46 Cal. 2d 818, 836, *Cassim v. Allstate Is. Co.* (2004) 33 Cal. 4<sup>th</sup> 780, 801.)

The following substantiating reasons are as follows;

In the above section titled Factual and Procedural Background- III (c)- subsection 1(a), [Per Judge Beckloff's Tentative Ruling document- Page 6- 1st Paragraph- Lines 4-9], Judge Beckloff clearly reveals his inability to fully grasp the true scope of this specific matter at hand...or either confirms his blatant bias against Petitioners. It is extremely troubling as to why a Superior Court judge has such difficulty understanding a simplistic rule as Subdivision Ordinance 22.819, subsection (b), which clearly states, "The Department shall conduct an election within the boundaries stated in the subdivision petition...". For Judge Beckloff to state "it's not about geography" is absolutely jaw-dropping. Petitioners were totally unprepared to defend such peculiar accusations during the trial as Judge Beckloff's Tentative Ruling not only questioned, but more aggressively challenged our "interpretation" of 22.819, subsection (b), which has a strong undertone of Petitioners not possessing a basic comprehension level of 22.819, subsection (b) being about geography to the point in which Judge Beckloff implies Petitioners struggled to understand and therefore could only "interpret" and still got it wrong. How humiliating is that! Is it because Petitioners are from Skid Row? More evidence of Judge Beckloff's bias, prejudice and Abuse of Discretion! What makes matters worse for Petitioners is it's Judge Beckloff whose "interpretation" was incorrect. The result of which could only reveal just how blinded Judge Beckloff was as a "neutral party".



What was also revealing was Judge Beckloff's extreme willingness to embrace the City's own biased perspective (as he stated in his Tentative Ruling) "The reasonable interpretation given to the language referenced by Petitioners by Respondent in it's administration of the Ordinance...". Petitioners argue that Judge Beckloff bypassed his own logic and allowed himself to be influenced by the powerful City of Los Angeles which has failed on numerous instances to be fair and just as the Administrator overseeing this very Subdivision election process, as indicated in multiple areas above, or Judge Beckloff acted in concert with the City of Los Angeles to intentionally deceive the American judicial process by intentionally using wrongful interpretations to reach a "desired outcome".

Either way, it is clear that bias, prejudice and Abuse of Discretion by Judge Beckloff was present throughout this process. These nuances prevented and/or greatly restricted Petitioners from ever receiving a fair and just hearing and/or trial.

The remaining points in the Factual and Procedural Background section- III(c) are additional facts in which Judge Beckloff either issued flawed and/or biased rulings or are numerous instances in which Judge Beckloff completely ignored Petitioners presentation

of the simple fact that the City failed to “preserve” and “produce” the electronic online voter tallies. At no point throughout this entire process can it be understood and/or validated how Judge Beckloff reached his position that Petitioners “failed to meet our burden” regarding “preservation” and “production” when clearly the City of Los Angeles was the sole Administrator of the 2017 Skid Row Subdivision election, contracted the third-party vendor to administer all electronic online votes, were obviously tasked with “preserving” and “producing” the electronic online voter tallies, yet not once in over four (4) years of litigation has the City produced said electronic online voter tallies in question.

It is clear the City violated Los Angeles Election Code 1220 (Per Petitioner’s “Non-Administrative Record” Volume One- Exhibit 5A- Page 105, Bates Code P-0075), which states,

“Storage of Ballot Count Program.”

“Any magnetic or electronic storage medium used for the ballot count program...containing electronic results shall be kept in a secure location and shall be retained for six months following any City conducted election or so long thereafter as any contest involving the vote...remains undetermined.”

Petitioners filed it’s Intent to File a Writ within 60 days of the City certifying the election results and also Petitioners then-legal

counsel filed a “Preservation of Evidence” letter in October, 2017 (well within the 6-month requirement of Elections Code 1220) and with the legal proceedings going to trial in February, 2020 and now the appeal phase, the legal requirement for the City to still retain all electronic online voter tallies is not only valid, but because it was identified in a Cause of Action (Motion to Compel), should have been addressed by Judge Beckloff and not bypassed in which Judge Beckloff instead chose to address other issues within our filing to then justify his determination that the entire document was meritless. It is the position of Petitioners that bias and/or prejudice against our SRNC-FC existed in Judge Beckloff’s decision, in addition to Abuse of Discretion.

The following is, and has always been, the crux of Petitioners position. The City has not, and admittedly cannot, validate any of the electronic online votes. That clearly proves the City cannot prove that Petitioners lost our 2017 Skid Row Subdivision election. The City has never entered any evidence that suggests Petitioners lost said Subdivision election.

Therefore, without any of the online votes included in the final vote tabulation, the only undisputed remaining votes are the paper ballots. Petitioners holds a sizeable advantage of 183 “YES” votes to only 19 “NO” votes. This “final result” would mean the

Skid Row community would officially win it's Skid Row Neighborhood Council outright.

In Petitioner's "Non-Administrative Record" Volume 2, Exhibit 81, Page 68, Bates Code P-0764, titled "Unofficial Election Results" dated April 6, 2017 (election day) and Page 69, Bates Code P-0765, titled "Final Canvass of Votes" dated May 19, 2017 (day the Election Challenge Review Panel determination was finalized, and thus the Subdivision election results were certified by the City), the City of Los Angeles tabulated paper ballots 183 "YES" to 19 "NO" votes in both instances.

It is the position of Petitioners that Judge Beckloff's language in this instance strongly suggest his bias in ruling against Petitioners.

In a legal dispute involving an election, especially when one of the parties is responsible for administering said election, if the burden of proof regarding the compilation of, preservation of and overall administration of the election results are established (and in this case per Los Angeles Election Code 1220), the burden of proof in all subsequent legal matters must also be the responsibility of the very same party- identified as the

Administrator of said Subdivision election- which is none other than the City of Los Angeles.

If the Administrator cannot validate any of the online votes, unfounded, unproven and/or unsubstantiated election results should not, and must not, be allowed to stand under any circumstance. Because Judge Beckloff chose to completely bypass this glaring omission pertaining to a dispute over an election, Petitioners argue that Judge Beckloff's actions (or lack thereof) legally validated the flawed elections results, specifically all electronic online voting results, without any proof of it's existence and/or true validity.

Petitioners sole purpose of initiating a legal dispute was to validate all votes- paper ballots and most importantly electronic online votes- due to the unique nature of the entire neighborhood council subdivision election process governed by the City's Department of Neighborhood Empowerment, of which the regular election process involving the City Clerk handling all administration efforts under the authority of the California Secretary of State, are circumvented without being subject to any oversight other than the City of Los Angeles itself.

In essence, the City of Los Angeles governed over the City of Los Angeles in an election which was administered by the City of Los Angeles and election results tabulated by the City of Los Angeles.

So when Petitioners disputed the 2017 Skid Row Subdivision election, Petitioners had to go through the City of Los Angeles' feeble election challenge structure followed by lengthy litigation which ultimately resulted in the City finally admitting it cannot, and could not, validate any of the electronic online votes.

It is the position of Petitioners that if not the first order of business, soon thereafter Judge Beckloff should have investigated, inquired and/or requested the City to provide him with the final electronic online voter tally results to better grasp the full scope of the matter before him.

It is also the position of Petitioners that his failure to do so further proves bias and prejudice against Petitioners. Not only did Judge Beckloff disappoint the SRNC-FC, but also failed to uphold and preserve the American democratic process.

Therefore, Petitioners request relief from the Court of Appeals to rule in favor of Petitioners and compel the City to produce the electronic online voter tallies in question otherwise deem

Petitioners as the winners of the 2017 Skid Row Subdivision election.

## **V. – Conclusion -**

For the reasons discussed above, the challenged order/judgment must be reversed. The lower court should be directed to vacate it's previous judgment and enter a new and different order, for the following reason(s);

The City of Los Angeles was tasked with the duty of Administrator over a neighborhood council subdivision election. The Skid Row Neighborhood Council Subdivision election took place on April 6, 2017. It should be undisputed that the City was/is responsible for the preservation and production of the electronic online voter tallies which were challenged by Petitioners immediately after said Subdivision election and of which remain in question today. The City failed in it's duties of preservation and production, duties which the City itself has provided proof of it's acknowledgment of such duty. Petitioners filed both 1085 (traditional) and 1094.5 (administrative) writs due to the City's failure to preserve and produce the electronic online voter tallies connected to the aforementioned Subdivision election. It is Petitioners position that the lower court also failed in it's own duty as a neutral

judicial overseer of this litigation process due to the fact that the City's flawed findings were not supported by the evidence it presented. Further, the lower court erred in its incorrect rationale of a critical ordinance which it then used to perpetuate a constant pattern of bias and prejudice against Petitioners.

In a demeaning tone, the lower court admonished Petitioner's presentation of the facts and described it as "jumbled" while at the same time Judge Beckloff's own Tentative Ruling had similar flaws as well- such as on multiple occasions citing exhibits which were "off-topic", factually incorrect and/or completely unrelated to the matter at hand and also there were instances in which Judge Beckloff attempted to quote legal standing but instead used unrelated, ambiguous language and applied it as valid citations. This followed Judge Beckloff's confusing statements which claimed Petitioners failed to meet our burden during the Motion to Compel hearing which, again, was an issue regarding the City's failure to "preserve and produce" in its capacity as Administrator of an election. Even with the City providing confirmation of its acceptance of the responsibility to both preserve and produce, it begs to question who, then, does Judge Beckloff assume is responsible for the preservation and production of all electronic online voter tallies if not the Administrator of said election?



Based on the aforementioned bias and prejudicial findings/determination(s), Petitioners request the Court of Appeals to- 1) Set aside the lower court's decision; 2) Grant Petitioners relief in one or more of the following options- a) Order this matter back to the lower court with a specific order for the City to produce the electronic online voter tallies, or b) Declare Petitioners the winners of said Subdivision election outright due to the City's already established inability to produce the electronic online voter tallies in question. The later option would relieve Petitioners from any further irreparable harm, including the mental strife associated with Judge Beckloff's unrealistic resolve of "re-doing the entire election" (in addition to the extensive significant harm already caused from mental, physical, emotional and spiritual stresses). Petitioners also request relief in any way the Court of Appeals deems just.

Respectfully  
submitted,



Jeff Page (Plaintiff)

4/16/2021


Date

## **CERTIFICATE OF WORD COUNT**

(Cal. Rules of Court, Rule 8.204(c)(1))

The foregoing Appellant's Opening Brief is produced using 14-point New times roman type, including all footnotes, and consists of 13,984 words (but does not include the Table of Contents, Table of Authorities or the Exhibits). Appellant relies on the word count generated by the word-processing program (Microsoft Word) used to generate the brief.

Dated: 4/16/2021

  
\_\_\_\_\_  
Appellant, In Pro Per

## **Exhibit a.**

Excerpt taken from City-provided spreadsheets titled “Final-Redacted Online Voter List” (indicating 670 total online votes)

### **(Document exists in the “Thumb Drive”)**

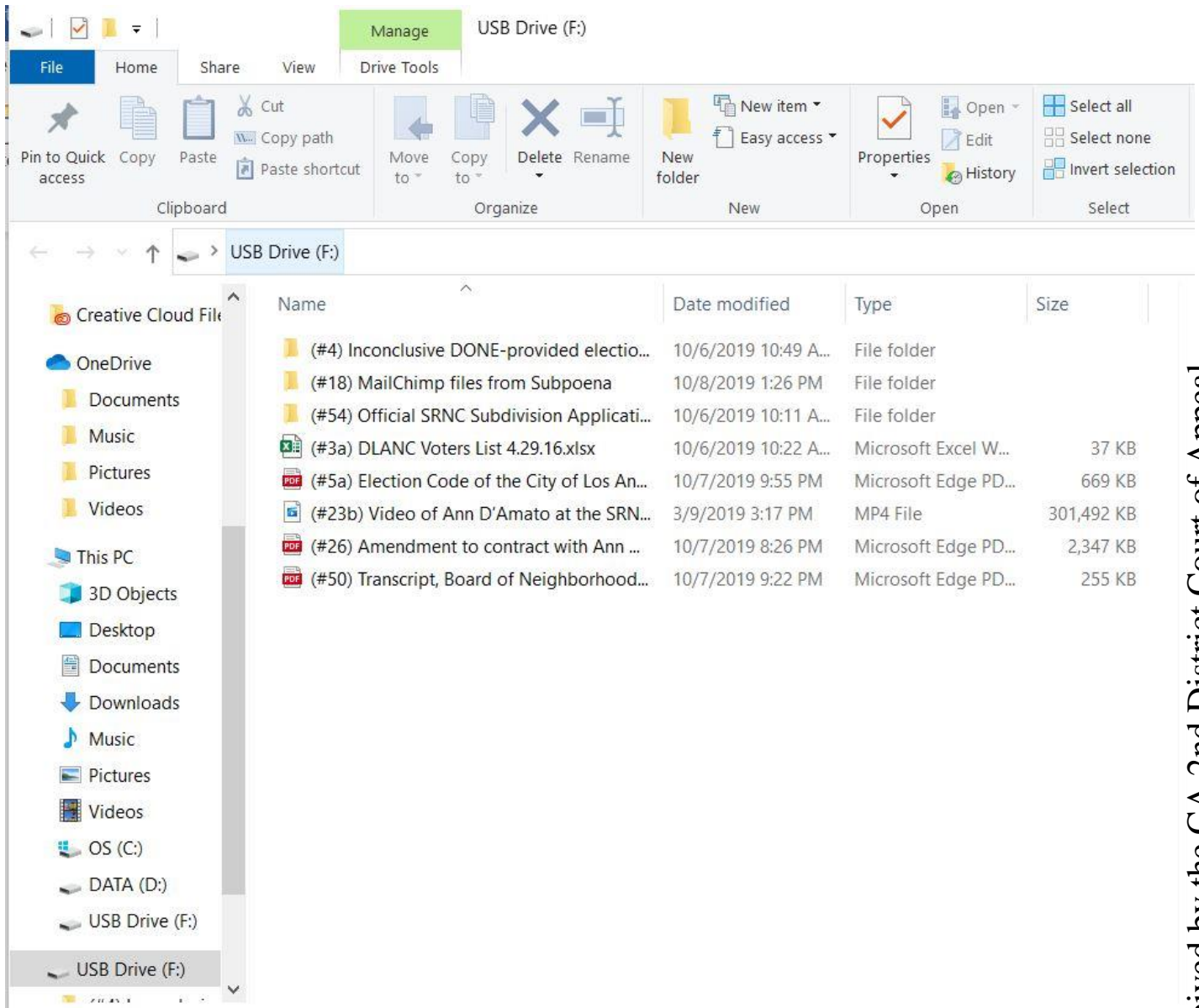
(Step 1) Go to Exhibit 82 in the Non-Admin. Record. Vol. 2 (“Thumb Drive”)

(Step 2) Find listing #4 titled, “Inconclusive DONE-provided election tally documentation plus initial email request”

(Step 3) Open the zip file (click on link)

(Step 4) Find Excel page titled, “Final Original List online voters – Redacted”

## Screenshot of Step 2 (in Exhibit a.)



Document received by the CA 2nd District Court of Appeal.

## Screenshots of Step 4 (in Exhibit a.)

AutoSave Off Final Original List online voters - Redacted.xlsx Search

File Home Insert Page Layout Formulas Data Review View Help

Clipboard Font Alignment Number

First\_Name

	A	B	C	D	E	F	
1	First_Name	Last_Name	DOB	Email_Address:	Phone_Number	Street	Street 2
2	Laurie	Sale				Via De La Paz	
3	Ross	Heckmann				Valencia Way	
4	Jerome	Ottenwaelter				S Main St	
5	Andreea	Theodore				Shasta Circle North	
6	Evelyn	Yoshimura				Orange Grove Ave.	
7	Steven	Sharp				S Alameda Street	
8	Simon	Ha				W 9th Street	

AutoSave Off Final Original List online voters - Redacted.xlsx Search

File Home Insert Page Layout Formulas Data Review View Help

Clipboard Font Alignment Number

First\_Name

	A	B	C	D	E	F	
658	Raymond	Cervantes				Avalons Blvd	
659	Elvis	Romero				E 73rd St	
660	Narek	Khachatryan				E 3rd Ave	
661	Rosa Maria	Solano Guizar				S Hobart Blvd	
662	Tatiana	Badalova-Khache				e 3rd ave	
663	Guillermo	Salazar				W 12th St	
664	Krystal	Messer				S MAIN ST, 90014	
665	Ray	Ricafort				S. San Pedro	
666	Jose	Bernal				S Flower St	
667	Kyle	Izumihara				E 3RD ST	
668	Virgo	Evans				5th ave	
669	Brooke	Kolisar				S. Spring st	
670	Taryn	Donnels				W 28th Street	
671							
672							
673							

## **Exhibit b.**

“Final Canvas of Votes” (indicating 1388 total online votes)

**SUBDIVISION ELECTION  
SKID ROW  
CANVASS OF VOTES**

OPTION	YES	NO
PAPER BALLOTS	183	19
CURBSIDE VOTES	0	0
PROVISIONAL VOTES	2	0

TOTAL PAPER BALLOTS	202
VOTER REGISTRATIONS	603
TOTAL CURSIDE	0
TOTAL PROVISIONAL	11
PROVISIONAL COUNTED	2
PROVISIONAL NOT COUNTED	9

OPTION	YES	NO
ONLINE VOTES	581	807
TOTAL VOTES RECEIVED	1388	

TOTAL YES VOTES	766
TOTAL NO VOTES	826

Final

Signature 1: 

Signature 2: 

Signature 3: 

## **Exhibit c.**

“Unofficial Canvas of Votes” (clear listing of paper ballot totals)



EmpowerLA! Skid Row Subdivision Election

unofficial ~~Final~~ Results

6-Apr-17

OPTION	YES	NO
PAPER BALLOTS	183	19
CURBSIDE VOTES	0	0
PROVISIONAL VOTES		
TOTAL VOTES RECEIVED		

TOTAL PAPER BALLOTS	<u>202</u>
VOTER REGISTRATIONS	<u>603</u>
TOTAL CURBSIDE	<u>0</u>
TOTAL PROVISIONAL	<u>11</u>

OPTION	YES	NO
ONLINE VOTES	581	807
TOTAL VOTES RECEIVED		

TOTAL YES VOTES

764

TOTAL NO VOTES

826

  
\_\_\_\_\_  
\_\_\_\_\_

## **Exhibit d.**

Subdivision Ordinance 22.819 (implemented in September, 2016)

ORDINANCE NO. 184526

An ordinance adding Section 22.819 to the Los Angeles Administrative Code establishing a procedure for stakeholders to create a certified Neighborhood Council within the boundaries of one or more existing certified Neighborhood Councils.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. A new Section 22.819 is added to Article 3 of Chapter 28 of the Los Angeles Administrative Code to read as follows:

**Sec. 22.819. Neighborhood Council Subdivision.**

(a) **Subdivision Petition.** A stakeholder within an existing certified Neighborhood Council who desires forming a separate certified Neighborhood Council within the boundaries of one or more existing certified Neighborhood Councils shall submit a subdivision petition to the Department of Neighborhood Empowerment (Department) on a form approved by the Department. The subdivision petition shall identify five stakeholders who are authorized to receive notice and make decisions regarding the subdivision petition, including any bylaw changes. The Department shall review the subdivision petition to determine if the subdivision petition complies with the components of a Certification Application stated in Article III, Section 2 of the Plan for a Citywide System of Neighborhood Councils (Plan), except that the subdivision petition may propose boundaries that are within one or more existing certified Neighborhood Councils.

(b) **Election Approving a Subdivision.** The Department shall conduct an election within the boundaries stated in the subdivision petition within 90 days of the Department's approval of the subdivision petition. A stakeholder is eligible to vote in the election if the person is a stakeholder in the proposed area for subdivision or in any of the Neighborhood Councils that are proposed for subdivision. A majority of the voters from the entire Neighborhood Council or Neighborhood Councils being subdivided must approve the subdivision in order to create the new Neighborhood Council.

(c) **Bylaws for the Existing Neighborhood Council.** If a majority of the stakeholders at the election approve the subdivision, then the existing certified Neighborhood Council or Neighborhood Councils being subdivided shall amend their bylaws within 30 days of the election to reflect changes to the boundaries and, if applicable, the board structure. If the existing certified Neighborhood Council or Neighborhood Councils fail to provide amended bylaws within 30 days of the election, then the Department is authorized to amend the bylaws to reflect any changes to the boundaries or board structure. The Department shall forward the bylaws for any Neighborhood Council that is being subdivided and the subdivision petition to the Board of Neighborhood Commissioners (Commission) for approval of the bylaws.

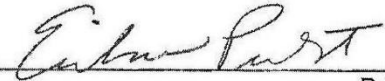
(d) **Approval of Bylaws by the Commission.** The Commission is authorized to review the bylaws for any Neighborhood Council being subdivided and the bylaws in the subdivision petition. The Commission is authorized to make any amendments to the bylaws to satisfy Article III Section 2 of the Plan. If the Commission approves the bylaws in the subdivision petition, then the Neighborhood Council listed in the subdivision petition shall be deemed a certified Neighborhood Council within the City of Los Angeles. The five stakeholders listed in the subdivision petition shall be authorized to work with the Department and make decisions regarding the initial election or selection of the newly certified Neighborhood Council's governing board. The Neighborhood Council or Neighborhood Councils being subdivided are not required to recertify and continue to remain certified after approval by the Commission of the bylaws.

(e) **Regulations.** The Department is authorized to promulgate any further procedure, rule or regulation necessary for the administration of the subdivision process contained in this section, including, but not limited to, conducting the election for subdivision, initial election for the subdivided Neighborhood Council's governing board, eligibility for voting at any election, and placing limitations the number of subdivision petitions processed during any calendar year.


Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of SEP 27 2016.

HOLLY L. WOLCOTT, City Clerk

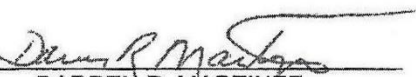
By  Deputy

Approved 9/28/16

 Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By   
DARREN R. MARTINEZ  
Deputy City Attorney

Date 8/12/2016

File No. 12-1681

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### DECLARATION OF POSTING ORDINANCE

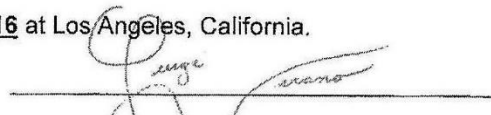
I, JUAN VERANO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 184526 – Adding Section 22.819 to the Los Angeles Administrative Code establishing a procedure for stakeholders to create a certified Neighborhood Council within the boundaries of one or more existing certified Neighborhood Councils – a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on September 27, 2016, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on September 30, 2016 I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on September 30, 2016 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 30th day of September 2016 at Los Angeles, California.

  
\_\_\_\_\_  
Juan Verano, Deputy City Clerk

Ordinance Effective Date: November 9, 2016

Council File No. 12-1681